THE HON'BLE MR JUSTICE RAMESH RANGANATHAN

WRIT PETITION No.22258 of 1997

Dated 20-03-2007

Between:
T.Ramalingam.

..... PETITIONER

AND

The Dy. Registrar of Cooperative Societies, Tekkali, Tekkali Post & Mandal, Srikakulam District and another.

.....RESPONDENTS

THE HON'BLE MR JUSTICE RAMESH RANGANATHAN

WRIT PETITION No.22258 of 1997

O R D E R:

The relief sought for in this writ petition is for a mandamus to declare the action of the first respondent in directing the second respondent to stop payment of dearness allowance from January, 1997 and to recover the dearness allowance already paid to the petitioner as illegal, arbitrary, without jurisdiction and contrary to Section 2(5) & (21) of the A.P.Shops and Establishments Act, G.O.Ms.No.33, dated 06-03-1991 and item 2(a) of Special Bye-laws of the Society.

Sri S.Siva Prasad, learned counsel for the petitioner, would place reliance on G.O.Ms.No.33, dated 06-03-1991 and the relevant provisions of the A.P.Co-operative Societies Act and the A.P.Shops and Establishments Act to contend that the petitioner, an accountant in the second respondent-society, is entitled for protection under G.O.Ms.No.33 dated 06-03-1991 and is liable to be paid minimum wages as prescribed thereunder. Learned counsel would place reliance on a judgment of this Court in **Pondur Milk Producers Co-operative Society v. Authority under Minimum Wages Act**[1].

Learned Government Pleader for Cooperation, on the other hand, would contend that since a full-bench of this Court in **A.P.Co-operative Societies Employees Union v. Govt. of A.P.,**[2] had held that the purpose of constituting Primary Agricultural Cooperative Societies is to provide credit to the farmers, the employees of such societies were only entitled to the wages as prescribed by the Registrar of Co-operative Societies under Section 116-C of the A.P.Cooperative Societies Act. She would also place reliance on a

judgment of this Court in **A.Subramanyam Naidu and others v. Government of Andhra Pradesh**[3].

It is wholly unnecessary for this Court to go into these rival contentions inasmuch as the Minimum Wages Act itself prescribes the procedure for adjudication of claims for minimum wages under Section 20 thereof. Since questions as to whether the petitioner is entitled for protection under G.O.Ms.No.33 dated 06-03-1991, whether he is receiving wages less than the minimum wages prescribed thereunder, whether stopping payment of dearness allowance would result in his wages falling below the minimum wages are all questions of fact, which are better adjudicated by the designated authority, under Section 20 of the Minimum Wages Act. I see no reason to examine these questions of fact under Article 226 of the Constitution of India. Leaving it open to the petitioner, if he so chose, to avail the remedies under the Minimum Wages Act, the writ petition is dismissed. However, in the circumstances, without costs.

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20-03-2007

usd

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[1] 1999(1) ALT 494

[2] 2004(6) ALD 441 (FB)

[3] 2005(5) ALD 682